

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SIEMENS MEDICAL SOLUTIONS USA,)	
INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. _____
)	
PHILIPS MEDICAL SYSTEMS)	JURY TRIAL DEMANDED
(CLEVELAND), INC.,)	
)	
Defendant.)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Siemens Medical Solutions USA, Inc. ("Siemens Medical") for its complaint against Defendant Philips Medical Systems (Cleveland), Inc. ("Philips Medical") hereby demands a jury trial and alleges as follows:

THE PARTIES

1. Plaintiff Siemens Medical is a corporation organized under the laws of Delaware with its principal place of business at 51 Valley Stream Parkway, Malvern, Pennsylvania, 19355.

2. Upon information and belief, Defendant Philips Medical is a corporation organized under the laws of California with its principal place of business at 595 Miner Road, Cleveland, Ohio 44143. Upon information and belief, Philips Medical has an agent registered to receive service of process in Delaware at 2711 Centerville Road, Suite 400, Wilmington, Delaware, 19808.

JURISDICTION

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338 because this action arises under the patent laws of the United States, including 35

U.S.C. § 271 *et seq.* This Court has personal jurisdiction over Defendant Philips Medical at least because, on information and belief, Philips Medical has regularly conducted business in Delaware and because Philips Medical has authorized an agent to receive service of process in Delaware.

VENUE

4. Venue is proper in this district under 28 U.S.C. §§ 1391 and 1400 because Defendant Philips Medical is subject to personal jurisdiction in this district as alleged in the previous paragraph.

INFRINGEMENT OF U.S. PATENT NO. 4,958,080

5. U.S. Patent No. 4,958,080 (“‘080 patent”, Ex. A) was issued on September 18, 1990. The ‘080 patent is assigned on its face to Schlumberger Technology Corporation (“STC”), which continuously held title in the ‘080 patent from its issuance until March 21, 2008. On March 21, 2008, STC assigned the ‘080 patent to Siemens Medical, including the exclusive right to sue for past, present, and future infringement of the ‘080 patent. As a result of this assignment, Siemens Medical alone has standing and authority to bring this complaint against Philips Medical for infringement of the ‘080 patent.

6. The ‘080 patent is directed to a gamma ray or x-ray detector containing a single crystal of cerium-activated lutetium oxyorthosilicate (“LSO”) as the scintillation crystal.

7. This Court has already found that a supplier of Philips Medical, Saint-Gobain Ceramics & Plastics, Inc. (“Saint-Gobain”), indirectly infringed the ‘080 patent through its supply of lutetium yttrium oxyorthosilicate scintillation crystals (“LYSO crystals”) to Philips Medical for use in Philips Medical’s gamma or x-ray detectors, including without limitation gamma or x-ray detectors in Philips Medical’s Gemini TF PET/CT scanners.

8. At the trial between Siemens Medical and Saint-Gobain, the Vice President of Global Research and Development for Nuclear Medicine of Philips Healthcare voluntarily testified in Saint-Gobain's defense. He testified at trial that before Philips Medical began to sell the Gemini TF PET/CT scanner, Philips had noted that "LYSO is closely related to LSO, and has nearly identical characteristics when grown with 5-to-10 percent yttrium," that "LYSO intended for PET applications is grown with only 5-or-10 percent yttrium, which gives it performance that is almost identical to pure LSO," and that "it's clear to all that the purpose of this yttrium substitution is circumvention of [the] intellectual property claims" of Siemens Medical's predecessor.

9. On December 16, 2009, this Court entered judgment that Saint-Gobain was liable to Siemens Medical for \$44,937,545 plus more than \$5,000,000 in interest for its indirect infringement of the '080 patent. These damages included lost profits damages for 61 PET/CT scanners and no damages for another 18 PET/CT scanners Philips Medical made containing Saint-Gobain LYSO crystal. To find that Saint-Gobain indirectly infringed the '080 patent, this Court necessarily found that the manufacture, use, sale, and offer for sale of the Philips Medical Gemini TF PET/CT scanner in the United States during the life of the '080 patent directly infringed the '080 patent.

10. On February 24, 2011, the United States Court of Appeals for the Federal Circuit affirmed the judgment of this Court that Saint-Gobain infringed the '080 patent, and vacated the damages award, remanding to this Court "to consider a reasonable royalty for the additional 18 infringing scanners [containing Saint-Gobain's LYSO crystal] to be added to the \$44,937,545 in lost profits" awarded by this Court in its judgment of December 16, 2009.

11. The judgment against Saint-Gobain only awarded Siemens Medical damages associated with Philips Medical's Gemini TF PET/CT scanners that contained Saint-Gobain LYSO crystals.

12. During the life of the '080 patent, Philips Medical had at least two suppliers of LYSO crystals for its Gemini TF PET/CT scanners. There was no difference in the operation of Philips Medical's Gemini TF PET/CT scanners based on which supplier's LYSO crystal was used.

13. Philips Medical infringed the '080 patent through the manufacture, use, sale, and offer for sale in the United States during the life of the '080 patent of gamma ray or x-ray detectors containing LYSO crystals that Philips Medical obtained from a supplier other than Saint-Gobain, including without limitation Philips Medical Gemini TF PET/CT scanners that contained LYSO crystals manufactured by a supplier other than Saint-Gobain.

14. Siemens Medical has been damaged by Philips Medical's infringement of the '080 patent by the manufacture, use, sale, and offer for sale during the life of the '080 patent of gamma or x-ray detectors containing LYSO crystals that Philips Medical obtained from this other supplier, including without limitation Philips Medical Gemini TF PET/CT scanners that contained LYSO crystals manufactured by a supplier other than Saint-Gobain.

15. Philips Medical's infringement of the '080 patent was willful.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment as follows:

- A. That the '080 patent was infringed by Philips Medical;
- B. That Siemens Medical be awarded all damages adequate to compensate it for Philips Medical's infringement by the manufacture, use, sale, or offer for sale in the United

States of gamma ray or x-ray detectors that used LYSO crystals from a supplier other than Saint-Gobain, such damages to be determined by a jury and that such damages to be awarded to Siemens Medical with prejudgment and postjudgment interest;

C. That Philips Medical's infringement of the '080 patent was willful, and awarding Siemens Medical treble damages in light of Philips Medical's willful infringement;

D. That this case is exceptional under 35 U.S.C. § 285 and awarding Siemens Medical the attorneys fees, costs, and expenses that it incurs in prosecuting this action; and

E. That Siemens Medical be awarded such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury on all issues triable of right by a jury

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